

Government of the District of Columbia
Department of Insurance and Securities Regulation



IN THE MATTER OF THE PROPOSED ACQUISITION OF : CASE NO. (HC# 00-01)
EQUITABLE LIABILITY INSURANCE COMPANY :
BY ANACOSTIA HOLDING COMPANY OF MARYLAND, INC. :

DECISION AND ORDER

JURISDICTION

This matter came before the District of Columbia Department of Insurance and Securities Regulation (hereinafter DISR) on September 26, 2000 pursuant to the Holding Company System Act of 1993, D.C. Law 10-44, D.C. Code, Title 35, Section 35-3701, et seq. (HCS Act), and the D.C. Administrative Procedure Act, D.C. Code § 1-1501 et seq. (1992 Repl.) (APA) for the purpose of considering whether the proposed acquisition of Equitable Liability Insurance Company (Equitable), a District of Columbia domiciled stock property and casualty insurance company subject to the insurance laws of the District of Columbia, by Anacostia Holding Company of Maryland, Inc. (Anacostia), a Maryland corporation, should be approved.

PROCEDURAL HISTORY

The above-captioned Application, Case Number HC-00-01, was filed by Anacostia with DISR on May 23, 2000, amended on June 8, 2000 and September 6, 2000. The final Form A filing was submitted on September 19, 2000.

Notice of a public hearing regarding the proposed acquisition of Equitable Liability Insurance Company by Anacostia Holding Company was published in the August 25, 2000, District of Columbia Register. Anacostia arranged for publication of the Notice of Public Hearing in the Washington Times on September 10, 11 and 12, 2000. After all of the foregoing notices

were duly given, a public hearing was convened on September 21, 2000. On that date, Anacostia's representative requested a continuance that was granted by Leslie E. Johnson, Hearing Officer. The hearing was continued, and held on September 26, 2000 at the District of Columbia Board of Education Hearing Room, 825 North Capitol Street, Washington, D.C. before Leslie E. Johnson, Hearing Officer. The hearing was conducted for the purpose of considering whether the District of Columbia Department of Insurance and Securities Regulation Commissioner should approve the proposed acquisition of Equitable Liability Insurance Company by Anacostia Holding Company of Maryland, Inc. pursuant to D.C. Code § 35-3703(g)(1) et seq. A transcript of the hearing was prepared by Miller Reporting Company. The hearing was tape recorded by DISR.

Participating at the hearing on behalf of Anacostia Holding Company were John Ray, Esq. and Barrie D. Berman, Esq., of Manatt, Phelps & Phillips. Participating on behalf of DISR were Thomas Hampton, Deputy Commissioner; Rhonda Davis, Attorney Advisor; and Lilah Blackstone, Esquire.

Also present at the hearing were Gerald H. Schaeffer, Edith F. Schaeffer, Jeffrey M. Schaeffer, James Stunkle, and Patrick Senftle on behalf of the applicant, Anacostia. Mr. Ralph Waller, President of Equitable Liability Insurance Company appeared on behalf of Equitable. No members of the public were present at the hearing, requested to be heard, or presented testimony at the hearing. Gerald H. Schaeffer, did not testify during the hearing.

At the conclusion of the hearing the parties (DISR and Anacostia) were instructed to submit proposed decisions and orders by October 17, 2000. The record was to remain open until October 10, 2000. On October 16, 2000, Ms. Blackstone, Esq., DISR representative, requested an extension for the parties to file a joint proposed decision and order. This request was granted by the Hearing Officer. The submission was required to be made on October 27, 2000. A Joint Proposed Decision and Order was submitted by the parties on October 26, 2000.

BACKGROUND

Anacostia Holding Company was incorporated in May of 1999 and acquired the assets of First Washington Insurance Company (First Washington) through a stock transfer. First Washington, a wholly owned subsidiary of the holding company, offers and sells liability coverage to the Washington, D.C. taxicab industry and currently has approximately 2,300 policyholders.

In brief, the Anacostia business plan provides for Equitable to become a wholly-owned subsidiary of the holding company. According to the plan, Equitable and First Washington will be sister companies under the same ownership but will be operated as separate, competing entities. Independent members unrelated to the Schaeffer family will be appointed to serve on the governing boards of the various companies. First Washington and Equitable have plans to operate from separate offices, Equitable at its present location at 1100 Q Street, N.W., and First Washington at its present location at 3341 Benning Road, N.E. The accounting firm of Sharafi and Associates, CPAs, and the actuarial services of the Complete Actuarial Solutions Company are consultants and advisors to Equitable.

ISSUES CONSIDERED

1. Whether after the change of control, the domestic insurer (Equitable Liability Insurance Company) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed pursuant to D.C. Code § 35-3703 (g)(1)(A)?
2. Whether the effect of the acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly pursuant to D.C. Code § 35-3703(g)(1)(B)?

3. Whether the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer (Equitable Liability Insurance Company), or prejudice the interest of its policyholders pursuant to D.C. Code § 35-3703(g)(1)(C)?
4. Whether the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer (Equitable Liability Insurance Company) and not in the public interest pursuant to D.C. Code § 35-3703 (g)(1)(D)?
5. Whether the competence, experience, and integrity of those persons who would control the operation of the insurer (Equitable Liability Insurance Company) are such that it would not be in the interest of policyholders of the insurer and of the public to permit the acquisition of control pursuant to D.C. Code § 35-3703(g)(1)(E)?
6. Whether the acquisition is likely to be hazardous or prejudicial to the insurance buying public pursuant to D.C. Code § 35-3703(g)(1)(F)?

EVALUATION AND ANALYSIS OF THE EVIDENCE

1. **Whether after the change of control, the domestic insurer (Equitable Liability Insurance Company) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed pursuant to D.C. Code § 35-3703 (g)(1)(A)?**

D.C. Code § 35-3703(g)(1)(A) states in pertinent part:

“The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

- (A) After the change of control, the domestic insurer referred to in subsections (a) and (b) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;”

Equitable Liability Insurance Company ("Equitable") is a property and casualty insurance company licensed in the District of Columbia. (See, Government's Exhibit #3) As such, the requirements for its licensure are defined in D.C. Code § 35-3501 et seq. Among the requirements for licensure (and the ones most pertinent here) are: Certificate of authority (issuance or renewal) requirements; annual financial statements requirements; filing and reporting requirements; minimum capital and surplus requirements; company reserve requirements; filing and approval of policy forms; and licensing fee requirements.

Jeffrey M. Schaffer, Vice President and Secretary of Anacostia Holding Company, Inc. ("Anacostia") testified that Equitable is presently an insurance company that provides liability coverage to the drivers of the Diamond Cab Company and that it "will remain fully qualified for licensure to issue the liability coverage it now offers". In support of his statement he referred to evidence submitted with Anacostia's application. (See, Applicant's Exhibits 1 – 4)

Mr. Schaeffer also provided testimony (by way of an explanation of the company's business plan) that showed how Equitable will be able to satisfy the requirements for the issuance of license to write liability insurance, (for which it is presently licensed), after the acquisition. Specifically, Mr. Schaeffer testified that Anacostia's business plan provides for "Equitable to become a wholly-owned subsidiary of the holding company". He testified that Anacostia has "retained the accounting firm of Sharafi and Associates, CPA's, and the actuarial services of the Complete Actuarial Solutions Company as consultants and advisors to Equitable". Mr. Schaeffer testified that if the instant application is approved, Anacostia will implement short-term and long-term plans to expand the business focus. He said Anacostia will immediately begin to market Equitable to all owners and drivers throughout the D.C. taxi industry and target the District's approximately 3,000 limousine owners and drivers as a new market for

Equitable. Mr. Schaeffer also testified that Anacostia will seek the approval of the Insurance Commissioner to expand Equitable's products to include collision coverage in addition to liability insurance. He testified that Anacostia is working towards a goal of building a sound business and nurturing its growth and that he believes this is the approach Equitable needs in order to become a growing company, rather than a stagnant entity.

Mr. James Stunkle, Chief Financial Officer of Anacostia, also testified on behalf of Anacostia with respect to whether after the change of control, Equitable would be able to satisfy the requirements for the issuance of its present license. During the course of his testimony Mr. Stunkle presented evidence to support his assertion that Equitable will remain fully qualified for licensure to issue liability coverage that it now offers. (See Applicant's Exhibits 8 - 12) Anacostia offered into evidence a file folder containing documents that Mr. Stunkle had reviewed with an eye toward purchasing the shares of Equitable. Included in the folder was a statement regarding the due diligence that was conducted by Anacostia. This statement was from Hi-Q, an investigative company that provides searches against lawsuits on behalf of a named corporation. Mr. Skunkle testified that according to the Hi-Q report, Equitable did not have any pending lawsuits against it, no judgments against it, no UCC filings or tax liens. (See, Transcript Pp. 80 - 82 and Applicant's Exhibit 9)

The foregoing credible testimony of Mr. Schaeffer and Mr. Skunkle provide substantial evidence that it is highly likely that Equitable will be in better financial situation after the acquisition, then it is now, and therefore will be even better able to satisfy the licensing requirements for property and casualty insurance companies in D.C. Code § 35-1501 et seq.

Additionally, Anacostia presented substantial testimony related to the minimum capital and surplus requirements of D.C. Code § 35-1516. D.C. Code § 35-1516 provides in pertinent part: "Every stock company authorized to do business in the District shall have and shall at all times maintain a paid-up capital stock of not less than \$300,000, and a surplus of not less than \$300,000."

Equitable is a stock company, therefore it is required to comply with the capital and surplus requirements of D.C. Code § 35-1516. Equitable reported in its June 30, 2000 and July 31, 2000 financial statements, sufficient paid-up stock, paid-up surplus and unassigned surplus. (See, Applicant's Exhibit #11) Mr. Stunkle, the Chief Financial Officer of Anacostia Holding Company, credibly testified that he reviewed the financial statements of Equitable and was able to ascertain, as a result of his review, that Equitable could maintain the adequate capital and surplus. (See, Transcript P. 86) Mr. Skunkle also testified that if it was necessary, Anacostia could infuse into Equitable (\$80,000) to make them get back to the minimum capital and surplus requirements. (See, Transcript P. 95)

The Government presented no testimony to disprove the Applicant's testimony or evidence on issue #1.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence, the Hearing Officer finds that after the change of control, Equitable will be able to satisfy the requirements for the issuance of a license to write liability insurance for which it is presently licensed.

2. Whether the effect of the acquisition of control would be substantially to lessen competition in insurance in the District of Columbia or tend to create a monopoly pursuant to D.C. Code § 35-3703(g)(1)(B)?

The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(B) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly. In applying the competitive standard in this paragraph:

- (i) The informational requirements of § 35-3704(c)(1) and the standards of § 3504(d)(2) shall apply;
- (ii) The merger or other acquisition shall not be disapproved if the Mayor finds that any of the situations meeting the criteria provided by § 3504(d)(3) exist; and
- (iii) The Mayor may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.

D.C. Code § 35-3704(d)(3) states:

An order may not be entered under (e)(1) through (4) of this section if:

- (A) The acquisition will yield substantial economies of scale or economies in resource utilization that feasibly cannot be achieved in any other way, and the public benefits which would arise from these economies exceed the public benefits which would arise from not lessening competition; or
- (B) The acquisition will substantially increase the availability of insurance, and the public benefits of this increase exceed the public benefits which would arise from not lessening competition.

Jeffrey Schaeffer provided credible and persuasive testimony on this issue. He admitted that "Anacostia Holding, through its First Washington subsidiary and Equitable have liability insurance market shares that exceed the percentages set forth in the statute". (See, Transcript P. 27) (The statute referred to by Mr. Schaeffer was D.C. Code § 35 - 3704(d)(2) . It sets out the criteria to determine whether an insurer has violated the competitive standard of paragraph (1) of D.C. Code § 35-3704(d)(1)). However, Mr. Schaeffer also testified that there are a number of reasons that account for the excessive market shares. Specifically he testified that the market concentration that exists in the present situation (First Washington and Equitable have a combined market share of about 36 percent) is the "inevitable result of first, the small size of the market and, second, taxicab laws, rules and practices that tended to discourage additional

companies from entering the market". Mr. Schaeffer also provided detailed testimony on the anti-competitive impact of current laws and regulations and how they have discouraged insurers from entering the taxicab market. (See, Transcript Pp. 27 -30)

The law provides that if an acquisition violates the standards of D.C. Code § 35-3704, the Mayor may enter an order requiring an involved insurer to cease and desist from doing business or deny the application of an acquired or acquiring insurer for a license to do business in the District of Columbia pursuant to D.C. Code § 35-3704(e)(1)). However, there are two alternative criteria (exceptions) to entering such an order as cited above in D.C. Code § 35-3704(d)(3)(A) and (B). The applicant contends that the circumstances in this acquisition fall within both criteria (exceptions). Mr. Schaeffer presented testimony on both subsections A and B, even though it is necessary to meet only one criteria.

Mr. Schaeffer testified that currently, the relevant taxicab insurance market encompasses the approximately 7,000 District of Columbia taxicab owners and drivers who are required by law to have liability insurance. He testified four insurance companies presently serve this market. (See, Transcript P. 27) He said this market includes First Washington, Equitable, Amalgated Casualty, and Columbia Federal. First Washington and a fifth company – Bankers Independent Insurance – also sell collision coverage to the taxicab industry. (See Transcript P. 27).

Mr. Schaeffer testified to the following: Capital Casualty Insurance Company, which insured Capital cabs and others, once had the largest share of the market with more than 3,000 policyholders, but it went out of business in December 1998. (See Transcript P. 27). Anacostia Holding, through its First Washington subsidiary, and Equitable have liability insurance market shares that exceed the percentages set forth in the statute. However, if the acquisition were to be approved, that market share would increase, and the percentages would likely change. (See, Transcript P. 27) First Washington, with 2,300 policyholders, and Amalgated, with about the same number, have the largest market shares, about 32% for each. (See, Transcript P. 27)

They are followed by Columbia Federal, and Equitable with about 280 policyholders. Equitable has about 4% of the market. According to Mr. Schaeffer, if the acquisition is approved, First Washington and Equitable would, at the outset, have a combined market share of about 36%. (See, Transcript P. 28) The proposed acquisition will yield substantial economies of scale or economies in resource utilization that feasibly could not be achieved in any other way and the public benefits which would arise from the economies exceed the public benefits which would arise from not lessening competition. (See, Transcript P. 28) The acquisition will substantially increase the availability of insurance and the public benefits of the increase exceed the public benefits which may arise if competition is not lessened. (See, Transcript Pp. 31-34). If Anacostia's application is denied, and Equitable goes out of business, the result would be truly anti-competitive. (See, Transcript P. 34). The Government did not present any testimony or evidence to suggest that Mr. Schaeffer was incorrect in his assessment that the availability of insurance would actually increase. However, due to Equitable's previous difficulties, it is not out of the realm of possibilities that Equitable could go out of business. (See, Government's Exhibit #2)

Additionally, Mr. Schaeffer testified that the proposed acquisition meets both tests of the statute that allows the Mayor to approve an acquisition even though the numerical data, viewed in isolation, suggest that the result will be to increase market concentration. (See, Transcript Pp. 31-32) "First, the proposed acquisition will result in substantial economies of scale and resource utilization. The acquisition would bring a small company, Equitable, under the umbrella of the larger Anacostia Holding Company with its healthy financial and management resources". "The acquisition will allow Equitable to benefit from the more extensive resources Anacostia Holding already has in place, including legal, accounting, actuarial and claims investigation services. In addition, Equitable will gain the benefits and efficiencies of Anacostia Holding's state-of-the-art management system, which integrates claims records, premium payment records and other data". "This assures improved efficiency and accuracy in measuring the company's performance

and completing required filings. Moreover, the proposed acquisition will substantially increase the availability of insurance in the relevant market". There is no evidence to the contrary.

Mr. Schaeffer testified that as intended by Anacostia's business plan, they will "immediately market Equitable to the entire D.C. cab industry, ending its current restriction to Diamond drivers only, and will also market Equitable to the limousine industry". Mr. Schaeffer testified that under Anacostia's business plan a "non-Diamond cab driver will now have four possible liability insurers to choose from rather than three". He said, "it also means that First Washington's 2,300 policyholders will now have the new option of switching to Equitable, and we fully expect that First Washington and Equitable will compete with each other". Mr. Schaeffer also stated that "with the Commissioner's approval, Anacostia will expand Equitable's offerings to include collision coverage, which it does not presently provide". In doing so he stated that this "would further serve to increase the availability of insurance; thus, a much larger proportion of D.C. taxicab and limousine owners and drivers will have a new source of liability and collision coverage that they would not have if the application is denied". Mr. Schaeffer submitted that "these effects promote competition to a degree that more than offsets the possibility of diminished competition that may be suggested by the market share numbers alone". He noted further that "if the application is denied, and Equitable goes out of business, the result would be a truly anti-competitive impact, both in terms of numerical measurements of market share and in terms of diminished purchasing options for the taxicab segment of the insurance buying public".

Mr. Schaeffer also testified that if the application were denied the "pool of providers would become smaller, thus less competitive and less advantageous to the buying public". Moreover, he stated, if "Equitable goes out of business, those who would suffer the greatest harm would be the 280 policyholders who would lose their coverage, because they are all Diamond drivers. He said, "this would have a ripple effect of adverse impact upon the operation of one of the city's major cab companies" and stated that it is "surely essentially to the public interest to prevent such disruption of a vital element of the city's taxicab service". (See, Transcript Pp. 31-35) The

Government did not present any witnesses to contradict testimony of Mr. Schaeffer regarding the negative impact which would occur if the application were denied.

The applicant satisfied the requirements of the criteria established under D.C. Code § 35-3704(d)(3)(A) and (B) by providing substantial evidence through the testimony of Mr. Schaeffer that the instant acquisition will yield substantial economies of scale and resource utilization because of the healthy financial and management resources of Anacostia and will gain the benefits and efficiencies of Anacostia's state-of-the-art management system. The applicant also provided substantial testimony on how the proposed acquisition will substantially increase the availability of insurance in the relevant market by immediately marketing Equitable to the entire D.C. cab industry as opposed to only Diamond Cab, marketing to the limousine industry, and expanding Equitable's offerings to collision coverage (in addition to its current liability coverage).

The Government provided no testimony or evidence in opposition to Anacostia's contentions on issue #2.

The Hearing Officer finds that the applicant provided substantial evidence, through the testimony of Mr. Schaeffer, that although the effect of the acquisition of control would be to lessen competition in insurance in the District of Columbia (since the liability insurance market shares exceed those set out in D.C. Code § 35-3704(d)(2)), the acquisition should be approved pursuant to D.C. Code § 35-3704(d)(3) (A) and (B) because both situations exist relative to the instant proposed acquisition.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence, the Hearing Officer finds that the effect of the acquisition would be to substantially lessen competition in insurance in the District of Columbia pursuant to D.C. Code § 35-3703(g)(1)(B). However, the Hearing Officer also finds that both of the situations meeting the criteria provided by D.C. Code § 35-3704(d)(3)(A) and (B) exist and therefore the acquisition can be approved.

3. Whether the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer (Equitable Liability Insurance Company), or prejudice the interest of its policyholders pursuant to D.C. Code § 35-3703(g)(1)(C)?

D.C. Code § 35-3703(g)(1)(C) states:

"The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(C) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;"

Jeffrey Schaeffer, Vice-President and Secretary of Anacostia Holding Company, Inc., testified that Anacostia submitted financial statements and independent audit reports. He stated that the documents establish that Anacostia is a profitable company with total assets exceeding \$10 million, of which \$9 million are direct assets of First Washington, and with combined reserves for losses and loss adjustment expenses of more than \$5 million, and the data substantiates that Anacostia has sufficient financial stability to proceed with the acquisition. (See, Transcript P.35 and Applicant's Exhibits 6 - 12)

Mr. James Skunkle, Chief Financial Officer of Anacostia Holding Company testified about the financial condition of Anacostia and First Washington. He stated that he reviewed the balance statement and financials of Anacostia and determined that they accurately reflected the assets and liabilities of the company. He also testified that the statements showed a positive balance and that the company had reserves sufficient to pay insurance claims. (See, Transcript Pp. 65-66 and Applicant's Exhibit #6) Mr. Skunkle also testified that he reviewed the financial statement of First Washington and concluded that it adequately reflected the assets and liabilities and reserves of First Washington. (See, Transcript Pp. 67-69 and Applicant's Exhibit #7)

Anacostia presented substantial evidence on this issue. Its witnesses Mr. Schaeffer and Mr. Skunkle provided credible testimony that Anacostia is in top financial condition with total assets exceeding \$10 million and with a combined reserves for losses and loss adjustment expenses of more than \$5 million. The Applicant's exhibits also reflect this same condition. (See, Applicant's Exhibits 6 - 12) It is highly unlikely that a company in this financial shape would jeopardize the financial stability of Equitable or prejudice the interests of its policyholders since Equitable is a very small company with 280 policyholders that provides liability coverage only to the drivers of Diamond Cab Company and has had financial problems in the past. (See, Transcript Pp. 23 - 24 and Government's Exhibit #2) It would logically follow that quite the contrary would be true. Anacostia should improve the financial stability of Equitable given its current financial condition.

The Government presented no testimony or evidence that the financial condition of Anacostia was such as might jeopardize Equitable, or prejudice the interest of its policyholders.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence, the Hearing Officer finds that the financial condition of Anacostia is not as might jeopardize the financial stability of Equitable, or prejudice the interests of Equitable's policyholders.

4. **Whether the plans or proposals which the acquiring party (Anacostia Holding Company) has to liquidate the insurer (Equitable Liability Insurance Company), sell its assets, or consolidate or merge with any person, or to make other material change in its business or corporate structure or management are unfair or unreasonable to the policyholders of the insurer (Equitable Liability Insurance Company) and not in the public interest pursuant to D.C. Code § 35-3703(g)(1)(D)?**

D.C. Code § 35-3703(g)(1)(D) states:

"The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(D) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge with any person, or to make other material change in its business or corporate structure or management are unfair or unreasonable to the policyholders of the insurer and not in the public interest;"

Mr. Jeffrey Schaeffer testified on behalf of Anacostia Holding Company. He stated that Anacostia does not intend to liquidate Equitable, sell its assets, or consolidate or merge it into another entity. He also testified that as a wholly-owned subsidiary of the Anacostia Holding Company, Equitable will continue to operate as a separate entity with its own distinct and recognizable name and identity. He stated that the changes that will be made in Equitable's structure and management will be fair and reasonable and are absolutely essential to the preservation of Equitable as a successful company, which is clearly in the public interest. (See Transcript P. 36) Furthermore, during cross-examination by the Government, Mr. Schaeffer testified that Anacostia has no material changes or plans that will affect or be unfair to the policyholders of Equitable. (See Transcript P. 59)

The Government presented no evidence to rebut the Applicant's testimony or evidence on issue #4.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence the Hearing Officer finds that Anacostia has no plans or proposals to liquidate Equitable, sell its assets, or consolidate or merge with any person, or to make other material change in its business or corporate structure or management that are unfair or unreasonable to the policyholders of the insurer and not in the public interest.

5. **Whether the competence, experience, and integrity of those persons who would control the operation of the insurer (Equitable Liability) are such that it would not be in the interest of policyholders of the insurer (Equitable Liability) and of the public to permit the acquisition of control pursuant to D.C. Code § 35-3703 (g)(1)(E)?**

D.C. Code § 35-3703(g)(1)(E) states:

"The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(E) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the acquisition of control; ..."

Mr. Schaeffer, testified that the Schaeffer family, (who would control the operations of Equitable), has engaged in the taxicab business in the District of Columbia for nearly 50 years. (See, Transcript P.37) He stated that his grandfather started the company Liberty Cab Company in 1951, and his father, Gerald Schaeffer, joined the business in 1970 and now owns the Liberty Transportation Management Corporation. (See Transcript P.37) In 1980, the family launched a self-insured insurance company, to serve the taxicab insurance market. (See Transcript P. 37)

Mr. Schaeffer testified that through the Schaeffer's years of experience, the family has gained the knowledge and expertise to acquire Equitable and turn it into a growth enterprise. (See, Transcript P. 37) He stated the Schaeffer family has a record in initiating First Washington and developing it into a successful, growing business, which demonstrates the [family's] qualifications for taking on the challenge presented by the acquisition of Equitable." (See, Transcript P.37-38)

Mr. Gerald Schaeffer, Mrs. Edith Schaeffer and Mr. Jeffrey Schaeffer all submitted biographical affidavits, attesting to their background and experience. (See Applicant's Exhibit # 4) The biographical affidavits and the statements under item 3. entitled "Identity and Background of Individuals Associated with the Applicant", included in the "Form A" filing (Applicant's Exhibit #4), have been read by the Hearing Officer. According to the affidavits, all three Schaeffer family members have a great deal of business experience and appear to be competent individuals given their years of experience in the business world. None of the Schaeffers have had convictions in criminal proceedings, which speak to their integrity.

The Government presented no rebuttal evidence or testimony on issue #5.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence, the Hearing Officer finds that the competence, experience, and integrity of those persons who would control the operation of Equitable are such that it would be in the interest of Equitable's policyholders and of the public to permit the acquisition of control.

6. Whether the acquisition is likely to be hazardous or prejudicial to the insurance buying public pursuant to D.C. Code § 35-3703(g)(1)(F)?

D.C. Code § 35-3703(g)(1)(F) states:

"The Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(F) The acquisition is likely to be hazardous or prejudicial to the insurance buying public."

Mr. Schaeffer testified that the proposed acquisition is in no way hazardous or prejudicial to the insurance-buying public. To the contrary, he said, the acquisition would create substantial public benefits. Mr. Schaeffer also testified that the proposed acquisition would: 1) Provide all non-Diamond cab drivers and owners with a fourth insurance company option, rather than three. 2) Provide the taxicab industry with a new option for collision coverage, subject to the Commissioner's approval. 3) Improve Equitable's operating efficiencies, service to its policyholders, and strength in competing with other companies in terms of rates and quality of service to policyholders. 4) Rescue a stagnant company from the prospect of failure and set it on a road to growth. (See Transcript P. 38) This testimony indicates that the insurance buying public - the District of Columbia taxicab drivers, will not be harmed or prejudiced if the proposed acquisition of Equitable by Anacostia is approved.

Furthermore, the record shows that if the proposed acquisition is approved, the District of Columbia taxicab drivers will be able to conduct their business with an Equitable Insurance Company that will have improved efficiency and accuracy as they take advantage of Anacostia's state-of-the-art data management. The record also shows that the proposed acquisition will substantially increase the availability of insurance in the relevant market by

marketing Equitable to the entire District of Columbia cab industry, instead of only to Diamond cab drivers, and marketing Equitable to the limousine industry. (See, Transcript Pp. 32-33) These efforts will be advantageous to the taxicab industry (the insurance buying public herein), rather than hazardous or prejudicial.

The Government provided no rebuttal evidence or testimony on issue #6.

Accordingly, based upon the foregoing testimony, evidence and evaluation of the evidence, the Hearing Officer finds that the acquisition is not likely to be hazardous or prejudicial to the insurance buying public.

EXHIBITS

Anacostia Holding Company offered the following exhibits and moved their introduction into the record. The Government made no objection to these exhibits. They were accepted by the Hearing Officer and made a part of the official record.

Applicant Exhibit 1: Notice of Public Hearing for the Acquisition of Control or Merger with a Domestic Insurer Equitable Liability Insurance Company by Anacostia Holding Company, Inc., which was published in the Washington Times on September 10, 11 and 12.

Applicant Exhibit 2: Minutes of Stockholders Meetings (dated April 18, 2000)

Applicant Exhibit 3: Stock Purchase Agreement (dated May 31, 2000)

Applicant Exhibit 4: Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer (dated April 30, 1999)

Applicant Exhibit 5: Statement by Jeffrey M. Schaeffer, Vice President and Secretary of Anacostia Holding Company

Applicant Exhibit 6: Anacostia Holding Company Audited Financial Statements (dated September 14, 2000)

Applicant Exhibit 7: First Washington Company Audited Financial Statement (dated September 14, 2000)

Applicant Exhibit 8: Due Diligence Package (dated September 26, 2000)

Applicant Exhibit 9: Response from Hi-Q Title Search Regarding Pending Liens/Judgments against the Company. (dated September 13, 2000)

Applicant Exhibit 10: Reserve Report (dated September 13, 2000 for Equitable)

Applicant Exhibit 11: Equitable Financial Statements (dated June 30 and July 31, 2000)

Applicant Exhibit 12: Claim Report Analysis (dated September 7, 2000)

Applicant Exhibit 13: Memorandum to Gerald Schaeffer outlining review of claims/suits (dated September 15, 2000)

Applicant Exhibit 14: Equitable Board Meeting Minutes regarding approval of sale of stock company

The Government offered the following exhibits and moved their introduction into the record. The Applicant made no objection to these exhibits. They were accepted by the Hearing Officer and made a part of the official record.

Government Exhibit 1: Notice of Public Hearing (D.C. Register, August 25, 2000)

Government Exhibit 2: Order No. SC# SO-00-01, In the Matter of DISR v. Equitable Liability Insurance Company (dated May 24, 2000)

Government Exhibit 3: DISR licensing information for Equitable

FINDINGS OF FACT

After a careful evaluation and analysis of the evidence, the Examiner finds as a matter of fact that:

1. The Commissioner has jurisdiction over the parties and the subject matter herein, pursuant to the Holding Company System Act of 1993 (D.C. Law 10-44, D.C. Code, Title 35, Section 3701 et seq.)
2. On or about September 19, 2000, Anacostia Holding Company, of Maryland, Inc. submitted a revised Form A filing to DISR, along with numerous supporting financial documents. (See Applicant Exhibits# 6, 7, 8, 9, 10, 12, and 13)

3. Notice of a public hearing regarding the proposed acquisition of Equitable Liability Insurance Company by Anacostia Holding Company was published in the August 25, 2000, District of Columbia Register. (See Government Exhibit #1).
4. Anacostia arranged for publication of a Notice of Public Hearing in the Washington Times on September 10, 11 and 12, 2000. (See Applicant Exhibit # 1).
5. No members of the public were present at the hearing, requested to be heard, or presented testimony at the hearing.
6. At the conclusion of the hearing the parties were instructed to submit proposed decisions and orders by October 17, 2000. The record was to remain open until October 10, 2000. On October 16, 2000, Lilah Blackstone, Esquire, DISR representative, requested an extension for the parties to file a joint proposed decision and order. This request was granted by the Hearing Officer. The submission was required to be made on October 27, 2000. A Joint Proposed Decision and Order was submitted by the parties on October 26, 2000.
7. Equitable Liability Insurance Company ("Equitable") is a property and casualty insurance company licensed in the District of Columbia. (See, Government's Exhibit #3)
8. Jeffrey M. Schaffer, Vice President and Secretary of Anacostia Holding Company, Inc. ("Anacostia") testified that Equitable is presently an insurance company that provides liability coverage to the drivers of the Diamond Cab Company and that it "will remain fully qualified for licensure to issue the liability coverage it now offers". In support of his statement he referred to evidence submitted with Anacostia's application. (See, Applicant's Exhibits 1 - 4)

9. Anacostia's business plan provides for Equitable to become a wholly- owned subsidiary of the holding company. Anacostia retained the accounting firm of Sharafi and Associates, CPA's, and the actuarial services of the Complete Actuarial Solutions Company as consultants and advisors to Equitable. If the instant application is approved, Anacostia will implement short-term and long-term plans to expand the business focus. Anacostia will immediately begin to market Equitable to all owners and drivers throughout the D.C. taxi industry and target the District's approximately 3,000 limousine owners and drivers as a new market for Equitable. Anacostia will seek the approval of the Insurance Commissioner to expand Equitable's products to include collision coverage in addition to liability insurance. It is working towards a goal of building a sound business and nurturing its growth that is the approach it believes Equitable needs in order to become a growing company, rather than a stagnant entity. (See, Transcript Pp.23 -25)
10. Mr. James Stunkle, is the Chief Financial Officer of Anacostia. Equitable will remain fully qualified for licensure to issue liability coverage that it now offers. (See Applicant's Exhibits 8 - 12) Anacostia offered into evidence a file folder containing documents that had been reviewed with an eye toward purchasing the shares of Equitable. Included in the folder was a statement regarding the due diligence that was conducted by Anacostia. This statement was from Hi-Q, an investigative company that provides searches against lawsuits on behalf of a named corporation. According to the Hi-Q report, Equitable did not have any pending lawsuits against it, no judgments against it, no UCC filings or tax liens. (See, Transcript Pp. 80 - 82 and Applicant's Exhibit 9)

11. Anacostia Holding, through its First Washington subsidiary and Equitable have liability insurance market shares that exceed the percentages set forth in the statute. (See, Transcript P. 27) There are a number of reasons that account for the excessive market shares. The market concentration that exists in the present situation (First Washington and Equitable have a combined market share of about 36 percent) is the inevitable result of first, the small size of the market and, second, taxicab laws, rules and practices that tended to discourage additional companies from entering the market. The anti-competitive impact of current laws and regulations have discouraged insurers from entering the taxicab market. (See, Transcript Pp. 27-30)
12. The relevant taxicab insurance market encompasses the approximately 7,000 District of Columbia taxicab owners and drivers who are required by law to have liability insurance. Four insurance companies presently serve this market. (See, Transcript P. 27) This market includes First Washington, Equitable, Amalgated Casualty, and Columbia Federal. First Washington and a fifth company – Bankers Independent Insurance – also sell collision coverage to the taxicab industry. (See Transcript P. 27)
13. Capital Casualty Insurance Company, which insured Capital cabs and others, once had the largest share of the market with more than 3,000 policyholders, but it went out of business in December 1998. (See Transcript P. 27). Anacostia Holding, through its First Washington subsidiary, and Equitable have liability insurance market shares that exceed the percentages set forth in the statute. However, if the acquisition were to be approved, that market share would increase, and the percentages would likely change. (See, Transcript P. 27) First Washington, with 2,300 policyholders, and Amalgated, with about the same number, have the largest market shares, about 32% for each. (See, Transcript P.

27) They are followed by Columbia Federal, and Equitable with about 280 policyholders. Equitable has about 4% of the market. If the acquisition is approved, First Washington and Equitable would, at the outset, have a combined market share of about 36%. (See, Transcript P. 28)

14. The proposed acquisition will yield substantial economies of scale or economies in resource utilization that feasibly could not be achieved in any other way and the public benefits which would arise from the economies exceed the public benefits which would arise from not lessening competition. (See, Transcript P. 28) The acquisition will substantially increase the availability of insurance and the public benefits of the increase exceed the public benefits which may arise if competition is not lessened. (See, Transcript Pp. 31-34). If Anacostia's application is denied, and Equitable goes out of business, the result would be truly anti-competitive. (See, Transcript P. 34) (See, Government's Exhibit #2)
15. The proposed acquisition meets both tests of the statute that allows the Mayor to approve an acquisition even though the numerical data, viewed in isolation, suggest that the result will be to increase market concentration. (See, Transcript Pp. 31-32) The acquisition would bring a small company, Equitable, under the umbrella of the larger Anacostia holding Company with its healthy financial and management resources. The acquisition will allow Equitable to benefit from the more extensive resources Anacostia Holding already has in place, including legal, accounting, actuarial and claims investigation services. In addition, Equitable will gain the benefits and efficiencies of Anacostia Holding's state-of-the-art management system, which integrates claims records, premium payment records and other data. This assures improved efficiency and accuracy in measuring the company's performance and completing required filings. Moreover, the proposed acquisition will substantially increase the availability of insurance in the relevant market.

16. Anacostia's business plan, indicates that they will immediately market Equitable to the entire D.C. cab industry, ending its current restriction to Diamond drivers only, and will also market Equitable to the limousine industry. Also under the business plan a non-Diamond cab driver will now have four possible liability insurers to choose from rather than three. This also means that First Washington's 2,300 policyholders will now have the new option of switching to Equitable, and Anacostia fully expects that First Washington and Equitable will compete with each other. (See, Transcript Pp. 31-35)
17. With the Commissioner's approval, Anacostia will expand Equitable's offerings to include collision coverage, which it does not presently provide. This would further serve to increase the availability of insurance; thus, a much larger proportion of D.C. taxicab and limousine owners and drivers will have a new source of liability and collision coverage that they would not have if the application is denied. These effects promote competition to a degree that more than offsets the possibility of diminished competition that may be suggested by the market share numbers alone. If the application is denied, and Equitable goes out of business, the result would be a truly anti-competitive impact, both in terms of numerical measurements of market share and in terms of diminished purchasing options for the taxicab segment of the insurance buying public. If the application were denied the pool of providers would become smaller, thus less competitive and less advantageous to the buying public. (See, Transcript Pp. 31-35)
18. If Equitable goes out of business, those who would suffer the greatest harm would be the 280 policyholders who would lose their coverage, because they are all Diamond drivers. This would have a ripple effect of adverse impact upon the operation of one of the city's major cab companies that it is surely essentially to

the public interest to prevent such disruption of a vital element of the city's taxicab service. (See, Transcript Pp. 31-35)

19. Anacostia submitted financial statements and independent audit reports. The documents establish that Anacostia is a profitable company with total assets exceeding \$10 million, of which \$9 million are direct assets of First Washington, and with combined reserves for losses and loss adjustment expenses of more than \$5 million, and the data substantiates that Anacostia has sufficient financial stability to proceed with the acquisition. (See, Transcript P.35 and Applicant's Exhibits 6 - 12)
20. Mr. James Skunkle, Chief Financial Officer of Anacostia Holding Company reviewed the balance statement and financials of Anacostia and determined that they accurately reflected the assets and liabilities of the company. The statements showed a positive balance and that the company had reserves sufficient to pay insurance claims. (See, Transcript Pp. 65-66 and Applicant's Exhibit #6) Mr. Skunkle reviewed the financial statement of First Washington and concluded that it adequately reflected the assets and liabilities and reserves of First Washington. (See, Transcript Pp. 67-69 and Applicant's Exhibit #7)
21. Anacostia does not intend to liquidate Equitable, sell its assets, or consolidate or merge it into another entity. As a wholly-owned subsidiary of the Anacostia Holding Company, Equitable will continue to operate as a separate entity with its own distinct and recognizable name and identity. The changes that will be made in Equitable's structure and management will be fair and reasonable and are absolutely essential to the preservation of Equitable as a successful company, which is clearly in the public interest. (See Transcript P. 36)

22. Anacostia has no material changes or plans that will affect or be unfair to the policyholders of Equitable. (See Transcript P. 59)
23. The Schaeffer family, (who would control the operations of Equitable), has engaged in the taxicab business in the District of Columbia for nearly 50 years. (See, Transcript P.37) Mr. Schaeffer's grandfather started the company Liberty Cab Company in 1951, and his father, Gerald Schaeffer, joined the business in 1970 and now owns the Liberty Transportation Management Corporation. (See Transcript P.37) In 1980, the family launched a self-insured insurance company, to serve the taxicab insurance market. (See Transcript P. 37)
24. Through the Schaeffer's years of experience, the family has gained the knowledge and expertise to acquire Equitable and turn it into a growth enterprise. (See, Transcript P. 37) The Schaeffer family has a record in initiating First Washington and developing it into a successful, growing business, which demonstrates the [family's] qualifications for taking on the challenge presented by the acquisition of Equitable." (See, Transcript P.37-38)
25. Mr. Gerald Schaeffer, Mrs. Edith Schaeffer and Mr. Jeffrey Schaeffer all submitted biographical affidavits, attesting to their background and experience. (See Applicant's Exhibit # 4) The biographical affidavits and the statements under item 3. entitled "Identity and Background of Individuals Associated with the Applicant", are included in the "Form A" filing (Applicant's Exhibit #4).
26. According to the affidavits in Applicant's Exhibit 4, all three of the members of the Schaeffer family have a great deal of business experience and appear to be

competent individuals given their years of experience in the business world. None of the Schaeffers have had convictions in criminal proceedings.

27. The proposed acquisition is in no way hazardous or prejudicial to the insurance-buying public. To the contrary, the acquisition would create substantial public benefits. The proposed acquisition would: 1) Provide all non-Diamond cab drivers and owners with a fourth insurance company option, rather than three. 2) Provide the taxicab industry with a new option for collision coverage, subject to the Commissioner's approval. 3) Improve Equitable's operating efficiencies, service to its policyholders, and strength in competing with other companies in terms of rates and quality of service to policyholders. 4) Rescue a stagnant company from the prospect of failure and set it on a road to growth. (See Transcript P. 38)

CONCLUSIONS OF LAW

After a careful evaluation of the evidence and findings of fact, the Hearing Officer concludes as a matter of law that:

1. The Commissioner has jurisdiction over the parties and the subject matter herein, pursuant to the Holding Company System Act of 1993 (D.C. Law 10-44, D.C. Code, Title 35, Section 3701 et seq.
2. Notice of the public hearing was given in a manner consistent with D.C. Administrative Procedure Act, D.C. Code Section 1-1501 et seq. (1992 Repl.)
3. Pursuant to D.C. Code § 35-3703(g)(1)(A), after the change of control, Equitable will be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.
4. Pursuant to D.C. Code § 35-3703(g)(1)(B), the effect of the acquisition would be to substantially lessen competition in insurance in the District of Columbia.
5. Pursuant to D.C. Code § 35-3704(d)(3), both criteria have been met by the Applicant, thereby the acquisition can be approved, despite noncompliance with D.C. Code § 35-3703(g)(1)(B).
6. Pursuant to D.C. Code § 35-3703(g)(1)(C), the financial condition of the Applicant is not

as might jeopardize the financial stability of Equitable, or prejudice the interests of Equitable's policyholders.

7. Pursuant to D.C. Code § 35-3703(g)(1)(D), there are no plans or proposals which the Applicant has to liquidate Equitable, sell its assets, or consolidate or merge with any person, or to make other material change in its business or corporate structure or management that are unfair or unreasonable to the policyholders of Equitable and not in the public interest.
8. Pursuant to D.C. Code § 35-3703(g)(1)(E), the competence, experience, and integrity of those persons who would control the operation of Equitable are such that it would be in the interest of the policyholders of Equitable and of the public to permit the acquisition of control.
9. Pursuant to D.C. Code § 35-3703(g)(1)(F), the acquisition is not likely to be hazardous or prejudicial to the insurance buying public.

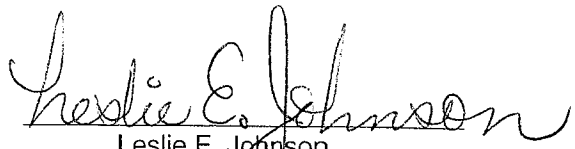
ORDER

It is therefore RECOMMENDED that the proposed acquisition of control of Equitable Liability Insurance Company by Anacostia Holding Company of Maryland, Inc., pursuant to the Holding Company Systems Act ("HCS Act"), D.C. Code § 3701, et seq. be, and is hereby, authorized and approved subject to the satisfaction of the following conditions; each of which shall be deemed to be supplementary to, and not in derogation of, existing applicable statutes, regulations and orders.

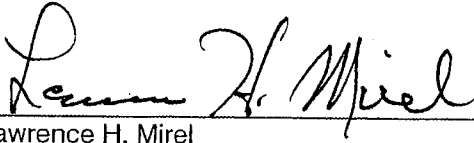
CONDITIONS

1. Anacostia Holding Company of Maryland, Inc. and Equitable Liability Insurance Company shall notify the Commissioner immediately should there be amendments, deletions, or additions to the Form A application and amendments.
2. Anacostia Holding Company of Maryland, Inc. shall notify the Commissioner immediately should its plan of operation change from that stated in this Order.

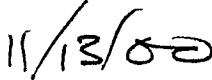
11/13/00
DATE


Leslie E. Johnson
Hearing Officer

I HEREBY ADOPT THE HEARING OFFICER'S DECISION AND RECOMMENDED
ORDER AS THE FINAL DECISION AND ORDER in this matter.



Lawrence H. Mirel
Commissioner
Department of Insurance and Securities Regulation



Date